

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

VIRGINIA TRANSFORMER CORP., )  
Plaintiff/Counter-defendant )  
v. ) Civil Action No. 7:18-cv-00143  
ALEXANDER EBBERT, ) By: Elizabeth K. Dillon  
Defendant. ) United States District Judge

## ORDER

For the reasons set forth in the accompanying memorandum opinion, the court hereby ORDERS as follows:

1. Ebbert's motion to amend (Dkt. No. 23) is GRANTED IN PART and DENIED IN PART. The court GRANTS the motion to amend to allow the addition of Ebbert's Title VII counterclaims, but those Title VII counterclaims are DISMISSED and REMANDED to the EEOC. It is also GRANTED as to his Section 1981 retaliation claim, and that claim will go forward.
2. Virginia Transformer Corp.'s motion to dismiss (Dkt. No. 16) is GRANTED IN PART and DENIED IN PART. It is DENIED as to Ebbert's breach of contract claim and Section 1981 retaliation claim. It is GRANTED as to his Section 1981 wrongful discharge claim, which is hereby DISMISSED WITHOUT PREJUDICE. Ebbert shall have 21 days from the entry of this order to file a third amended counterclaim. Unless the EEOC has completed its 180-day period of review and issued a new notice of right-to-sue by that time, the counterclaim should contain only the breach of contract claim, the Section 1981 retaliation claim, and, if Ebbert wishes to re-assert it, a Section 1981 wrongful discharge claim.

The clerk is directed to provide copies of this order and the memorandum opinion to all counsel of record.

Entered: March 28, 2019.

*/s/ Elizabeth K. Dillon*

Elizabeth K. Dillon  
United States District Judge